

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 PORTLAND DIVISION

4 CATHERINE ISABELLA MORRIS, )

5 Plaintiff, )

6 vs. )

7 LOLLIPOP GANG & CONSPIRATORS, )

8 Defendants. )

Nos. 03:13-cv-02084-HU

03:13-cv-02085-HU

03:13-cv-02086-HU

9 ORDER ON APPLICATIONS TO  
10 PROCEED IN FORMA PAUPERIS,  
11 AND FINDINGS & RECOMMENDATIONS  
12 ON INITIAL REVIEW

13 Catherine Isabella Morris

14 P.O. Box 173

15 Salem, OR 97308

16 Plaintiff *pro se*

17 HUBEL, Magistrate Judge:

18 This matter is before the court on the *pro se* plaintiff's  
19 applications to Proceed *In Forma Pauperis* (Dkt. #2 in each of the  
20 three cases), which she filed on December 22, 2013, together with  
21 a proposed Complaint (Dkt. #1 in each of the three cases). The  
22 court finds the plaintiff's applications meet the requirements set  
23 forth in 28 U.S.C. § 1915(a)(1), showing that the plaintiff is  
24 unable to pay the filing fee. Accordingly, the plaintiff's appli-  
25 cations to proceed *in forma pauperis* are **granted**. However, for the  
26 reasons set forth below, the undersigned recommends all three cases  
be dismissed without leave to amend.

27 Despite having granted the plaintiff's application to proceed  
28 *in forma pauperis*, the court must dismiss a case if the court finds

1 the plaintiff's claims are frivolous, fail to state a claim for  
2 which relief may be granted, or seek monetary relief against a  
3 defendant who is immune from the requested relief. 28 U.S.C.  
4 § 1915(e)(2). In addition, Federal Rule of Civil Procedure  
5 12(h)(3) mandates dismissal of an action if the court determines  
6 that it lacks subject-matter jurisdiction.

7 The plaintiff apparently attempts to invoke this court's  
8 jurisdiction on the basis of federal question. In two of her  
9 Complaints, she alleges a violation of the federal statute  
10 prohibiting stalking, 18 U.S.C. § 2261A. She alleges "Cyber-  
11 Stalking" in Case No. 03:13-cv-02084-HU, and "Interstate Stalking"  
12 in Case No. 03:13-c-02086-HU. In each case, the plaintiff's  
13 jurisdictional statement consists of a single, indecipherable  
14 sentence, to-wit: "United States Citizen currently registered in  
15 Marion County Sheriff Department as XX (rather than US)." In any  
16 event, while the court has jurisdiction over violations of the  
17 anti-stalking statute, those violations constitute criminal  
18 offenses for which criminal penalties are specified in 18 U.S.C.  
19 § 2261. The statute does not provide for a private right of  
20 action.

21 In Case No. 03:13-cv-02085-HU, the plaintiff brings a claim  
22 entitled "Conspiracy against Rights," purportedly in violation of  
23 18 U.S.C. § 24. However, 18 U.S.C. § 24 merely defines the terms  
24 "Federal health care offense" and "health care benefit program" for  
25 purposes of certain criminal violations. She sets forth the same  
26 jurisdictional allegation as in the other two cases.

27 Even if the court had jurisdiction, the plaintiff's Complaints  
28 in all three of these cases fail to meet even general notice-

1 pleading standards. She has failed to include adequate juris-  
2 dictional allegations. None of her Complaints contains even "a  
3 short and plain statement of the claim showing that [she] is  
4 entitled to relief." Fed. R. Civ. P. 8(1)(2). And her prayer for  
5 relief (identical in all three cases) simply lists six statutes,  
6 none of which is relevant to the statutes under which she purports  
7 to sue, and none of which would provide her with any "relief." The  
8 plaintiff states, in her Prayer for Relief, the following:

9 I will need to complete Relief as soon as Ex-  
10 parte Protection Orders are issued to stop  
11 chronic 24/7 external stimulation for over 3  
12 years, thus my limited ability to process and  
13 produce information due to disabilities of  
14 mental psychotic, emotional and learning dis-  
15 orders. 4 SPO's and 1 EDAPA have already been  
16 denied in 4 different circuit courts.

17 Dkt. #1 in Case No. 03:13-cv-2085-HU (identical in the other two  
18 cases).

19 Simply stated, the plaintiff's Complaints in these three cases  
20 would fail to place any defendant on notice of the nature of her  
21 claims, and fail to convince the court that it has jurisdiction  
22 over her claims. The court finds the plaintiff has failed to state  
23 a claim in any of these three cases, and recommends all three cases  
24 be dismissed.

25 Ordinarily, before dismissing a *pro se* Complaint for failure  
26 to state a claim, the court must advise the plaintiff of the  
27 Complaint's deficiencies, and give the plaintiff leave to amend the  
28 pleading. However, the plaintiff's pleadings are so devoid of  
allegations that might convey the nature of her claims, the court  
finds itself unable to provide her with such advice. Leave to  
amend is not required where it is clear the Complaint's

1 deficiencies cannot be cured by amendment. *Turner v. Advantage*  
2 *N.W. Credit Union*, 2011 WL 2293095, at \*1 (D. Or. June 3, 2011)  
3 (Brown, J) (citing *Rouse v. United States Dep't of State*, 548 F.3d  
4 871, 881-82 (9th Cir. 2008)).

5 Here, the court finds the plaintiff could not state a claim  
6 for which relief could be granted under either of the statutes  
7 under which she is attempting to sue. Therefore, the undersigned  
8 recommends all three of these cases be dismissed without leave to  
9 amend.

10  
11 ***SCHEDULING ORDER***

12 These Findings and Recommendation will be referred to a  
13 district judge. Objections, if any, are due by **January 3, 2014**.  
14 The Findings and Recommendations will go under advisement on that  
15 date.

16 IT IS SO ORDERED.

17 Dated this 16th day of December, 2013.

18 /s/ Dennis J. Hubel

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20 Dennis James Hubel  
21 Unites States Magistrate Judge  
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